

Minutes of a Regular Meeting

May 15, 2003

Town of Los Altos Hills

City Council Regular Meeting

Thursday, May 15, 2003, 6:00 P.M.

Council Chambers, 26379 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Fenwick called the Regular Meeting of the City Council to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Fenwick, Mayor Pro Tem Cheng and Councilmembers Kerr O'Malley and Warshawsky

Absent: None

Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, City Engineer/Director of Public Works Mintze Cheng, Administrative Services Director Sarah Joiner, City Clerk Karen Jost, Assistant Planner Debbie Pedro and Planning Consultant Deborah Ungo-McCormick

Press: Tim Seyfert, Los Altos Town Crier, Christina Bellantoni, Palo Alto Daily News

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to limit the length of time for public comments to three minutes.

2. APPOINTMENTS AND PRESENTATIONS

None

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that at its last meeting, the Planning Commission approved a variance for a detached garage and second unit to encroach into the rear yard setback. The property backs up to Highway 280 and the variance would not have a negative impact on neighbors. The second hearing was a request to amend conditions of approval regarding selection of exterior paint color. The Planning Commission denied this request.

4. CONSENT CALENDAR

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by O'Malley and passed unanimously, to approve the remainder of the consent calendar, specifically;

- Items Removed:

- MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to approve the minutes of the May 1, 2003 Regular City Council Meeting as amended with the following corrections: page 2, to include Mayor Fenwick's recusal of himself on the vote of Item 4.3; page 6, second to last paragraph delete Town in reference to businesses; page 9, should read Nancy Kelem; and page 11, should read Jolan Wagner.

- Councilmember O'Malley commended the City Manager for the exemplary work she had done on the agreement. He added that the Town was the real beneficiary with improved services at no additional cost.

City Engineer Mintze Cheng noted that there was an administrative correction to Exhibit G, the list of City Streets for street sweeping. Voorhees Drive had been inadvertently omitted and should be reinstated to the list.

5. UNFINISHED BUSINESS

5.1 Update on Mayor's Goals

5.1.1 New Town Hall

5.1.1 (a) New Town Hall Committee - Meeting Report of May 13, 2003 – Interview of Architects and Review of Proposals.

Councilmember Kerr reported that his Committee had considered proposals from five architects for the New Town Hall project. After reviewing the proposals, the Committee selected three finalists to be interviewed at their May 13, 2003 meeting. Each architect was sent a list of questions that would be asked during the interview including estimates of architectural fees that should include consultant bills, reimbursables, travel time and construction consultant visits using a construction cost of \$2.5 million; to comment on the Rural Design; a list of their qualifications; and a project timeline. At the conclusion of the interviews, the Committee unanimously selected Peter Duxbury, Duxbury Architects, to be recommended to the City Council as the architect of record for the New Town Hall project.

Kerr reported that the total estimated cost for architectural services including design, consultants, building drawings, obtaining site development approval, permits and supervision of the project is \$340,000.

Councilmember O'Malley added that an essential part of the selection process had been a reference check of the architects. Of the five proposals received by the Committee, three bids were similar, one did not submit costs with his proposal, but he was the architect on the last project and most likely would be more expensive and one bid was lower but the applicant had not done a similar project for sometime. As a result, the three architects chosen to be interviewed were very similar and the references were an important factor in selecting the architect. Peter Duxbury's references were all favorable. He is well known and respected in Town.

Mayor Fenwick asked if Duxbury had designed any buildings that would be familiar to Council.

Kerr noted that Duxbury had included in his proposal commercial projects that he has done, but of late, he is primarily involved with private residences in Los Altos, Woodside and Portola Valley. However, many of the homes that he has designed are substantially larger than the Town Hall project and more challenging and elaborate in detail.

PASSED BY CONSENSUS: To give direction to staff to work with Councilmember Kerr as the New Town Hall Committee representative, and Peter Duxbury, Duxbury Architects, on a proposed agreement and return to Council for approval.

Councilmember Kerr requested that discussion with the Purissima Hills Water District and the siting of their facility in the overall site plan for the New Town Hall be placed on a future agenda.

5.1.2 Undergrounding of Utilities – Status Report

5.1.2(a) Proposed Resolution of the City Council of the Town of Los Altos Hills Reaffirming Its Support for the Undergrounding of Utilities in the Town

Councilmember Warshawsky reported his Committee at their last meeting had drafted the proposed resolution that was before Council for consideration. The resolution mirrors the resolution that was adopted by the City of Tiburon and is considered to be a key component in their successful undergrounding program. Warshawsky added that his Committee feels this would be an effective tool to assist them in moving forward.

Councilmember Warshawsky explained that the Undergrounding Committee is proposing to send a Town-wide informational pamphlet to residents that would discuss “what it means to underground utilities” and the financing process. This would be followed by a Town-wide survey of resident interest in the program. The Committee will return to the City Council for a budget when details have been finalized.

Warshawsky added that Councilmember Lou Becker, City of Los Altos, had attended their last meeting. There is a great deal of interest in his City on the subject of undergrounding of utilities.

Mayor Fenwick asked Council if they had any comments or changes to the proposed resolution before them. There were none.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by O’Malley and passed unanimously to adopt a Resolution of the City Council of the Town of Los Altos Hills Reaffirming Its Support for the Undergrounding of Utilities in the Town. Reso 28-03.

5.1.3 Master Pathway Map – Committee Report

Councilmember O’Malley updated the Council on the progress being made by the Ad-Hoc Pathways Easement Committee. They are continuing to meet each Friday and are presently reviewing sections C1 and C2 of the map. O’Malley expects to have enough data to be completed by mid- June for consideration of “the next step” in the process. The question is “what is the next step?” The options include, but are not limited to, returning the findings to the Pathways Committee or establishing a special review committee. The goal of the Ad-Hoc Pathways Easement Committee has been to validate and record as a database for the Town all legal documentation for off-road pathways and pathways on private roads. The database can be used with the 1981 Pathways Plan to show which are proposed paths and which paths have legal easements.

O’Malley requested a discussion on the “next step” be agendaized for the June 5, 2003 Regular City Council Meeting.

Councilmember O’Malley thanked his Committee of volunteers for their commitment of time and dedication to this project, specifically, Bob Stutz, Nancy Ginzton, Carol Gottlieb, Dot Schreiner and Les Earnest.

Mayor Fenwick thanked Councilmember O’Malley for his attention to this verification process.

5.1.4 View Protection Ordinance Item 5.2

5.2 Proposed Draft Ordinance Amending Title 5 (Public Morals, Welfare and Conduct) with Regard to View and Sunlight Obstruction from Trees

Mayor Fenwick noted that following the Public Hearing and review by Council of the proposed view and sunlight protection ordinance at the Regular City Council Meeting of May 1, 2003, Council directed staff to make the requested changes and return with the revised proposed ordinance.

Planning Director Carl Cahill summed up the changes that had been made to the proposed ordinance. They included: (1) the inclusion of a provision for retroactivity in order to allow persons to preserve views or sunlight, which existed at any time since they purchased the property or up to 15 years prior to adoption of this ordinance, whichever is less, from unreasonable obstruction by the growth of trees; (2) revise ordinance text from “complaining party” to “initiating party”; (3) change “businesses” to “institutions”; (4) include provisions with regard to timing of tree removal and nesting birds; and (5) revise the section on conservation easements to protect naturally occurring native tree species within conservation easements.

Mayor Fenwick expressed his pleasure with the favorable public response to the view protection ordinance. He added that the final draft ordinance is reasonable and he will support its adoption.

OPENED PUBLIC HEARING

Jim Abraham, 12831 Viscaino Road, stated his concern that Council had not set the time the property was purchased as the retroactivity point for the preservation of views. Abraham stated that this was the majority opinion that was voiced at the previous public hearing. Abraham added he would like the undesirable tree section to be amended to include redwood trees.

Charles Simmons, 26350 Esperanza Drive, voiced his concern about people who purchased their property with trees and could now be forced to remove these trees. Simmons noted that on his property trees provide privacy and mitigation of unsightly views. He is concerned that the rights of the person with the view are being given more weight than the property owner with trees.

Mark Scheible, 26946 Dezahara, thanked Council for tackling this problem and would like to commend them for a good ordinance. Scheible would like to see the addition of a provision that addresses the removal or clearing of scrub oaks, particularly in a conservation easement.

Kathy Scheible, 26945 Dezahara, explained her property is inundated with scrub oaks in a conservation easement whose size according to the ordinance does not permit clearing. She is concerned about scrub oaks that are growing closely together and form a compact hedge.

Dot Schreiner, 14301 Saddle Mountain Drive, commented that this ordinance and the compromising mechanism it provides for settling view disputes is long over due.

Schreiner added that trees can be trimmed, topped and thinned; this ordinance does not require the removal of trees.

CLOSED PUBLIC HEARING

Councilmember O'Malley commented that he had been absent for the public hearing on the ordinance at the last City Council meeting and was surprised the retroactivity clause had been added.

Mayor Fenwick explained that the public had voiced very strong support for the inclusion of retroactivity.

Councilmember Warshawsky concurred with Mayor Fenwick on the issue of public support for retroactivity and added that he is pleased that the language in the ordinance encourages two parties to come to a reasonable conclusion. He thanked Mayor Fenwick for including a proposed view ordinance as one of his goals during his term as Mayor.

Mayor Pro Tem Cheng commented that the inclusion of fifteen years for retroactivity was a compromise. Many residents who spoke during the public hearing had wanted the retroactivity to the date the property was purchased.

City Manager Cassingham reminded Council that a Town-wide notice regarding the proposed ordinance and hearing date had been sent to residents.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed unanimously to waive further reading and introduce the Ordinance amending Title 5 (Public Morals, Welfare and Conduct) with regard to View and Sunlight Obstruction from Trees.

6. NEW BUSINESS

6.1 Consideration of a Second Special Meeting of City Council and Finance Investment Committee on Tuesday, May 27, 2003 – Study Session to Review the Operating and Capital Improvement Program Budgets for Fiscal Year 2003-2004

Administrative Director Sarah Joiner extended an invitation to Council to join the Finance and Investment Committee at their next meeting on Tuesday, May 27, 2003 for further discussion of the budget. Joiner noted that this is a preliminary budget and the intent of staff is to return to Council with a more finalized budget after the State budget is adopted.

Councilmember Kerr stated that he is uncomfortable adopting a budget that is not balanced before the State takes action.

Councilmember O'Malley noted that he would be in attendance at the study session as Council liaison to the Committee.

PASSED BY CONSENSUS: Councilmembers Kerr and O'Malley will attend the study session with the Finance and Investment Committee. Minutes from the meeting will be included in the June 19, 2003 City Council Meeting agenda packet.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Mayor Fenwick reported that he attended the Emergency Communications Committee Meeting. There were seventeen licensed radio amateurs in attendance. The Committee is still discussing their options for emergency attire - jackets versus vests.

Mayor Pro Tem Cheng reported that she attended the Library Commission Meeting. The Town of Los Altos Hills has a vacancy for a representative member on the Commission and she would like to see the Town continue to advertise and seek a member for the Commission. Cheng added that the library is investigating a "teens only" section. This has proven quite successful in other cities.

Mayor Pro Tem Cheng also attended the VTA Policy Advisory Committee. Cheng noted that most services that are provided by the VTA are not applicable to the Town.

Councilmember O'Malley reported that he attended the Information and Technology Ad-Hoc Committee. The committee is developing a three year plan for major IT purchases and recommendations for the Town. There will be a quarterly spending plan designed for the first year and annually after the first year. The goal is to have the plan ready for the Council at their June 19, 2003 City Council Meeting.

7.1 Housing Element Report (Housing Element Sub-Committee)

Mayor Fenwick noted that he and Mayor Pro Tem Emily Cheng, former Planning Commissioner Dot Schreiner and former Mayor Elayne Dauber comprised the Housing Element Sub-Committee. He requested staff introduce the Housing Element report.

Carl Cahill introduced the Housing Element consultant Deborah Ungo McCormick, who would present the staff report and recommendations of the Housing Element Sub-Committee to Council.

Ms. Ungo-McCormick presented an overview of events for the Council as background to this evenings report. She explained that a Draft Housing Element was sent to the State Department of Housing and Community Development (HCD) in Spring 2002 for review and comments. HCD completed its review and forwarded comments to the Town Manager in July, 2002 outlining the areas they felt were deficient. The Town staff proceeded to prepare responses to the comments, including the update of the 1994 Secondary Unit Survey and the update of the Vacant and Underdeveloped Lands Inventory to better describe the constraints. The Secondary Unit Survey was mailed to all Town residents and was completed in Fall 2002. The survey attempted to identify the number of secondary units within the Town and how these units are being used. The Town's Housing Element continues to rely primarily on the Secondary Unit Program to meet its fair share of housing needs. Ungo-McCormick noted the ABAG number that

needed to be met in the previous period for the Housing Element was 170 units. Just recently, ABAG reduced the number to 83 secondary units, which is a more closely indicative number for a bedroom community. Based on the rate of construction of secondary units, it is anticipated that the Town can meet its fair share of housing through this program alone.

Town staff met with HCD in December, 2002 to review their findings and there were still several issues that HCD felt needed to be addressed to consider the Housing Element adequate for certification.

The Housing Element Sub-Committee was formed by the Council in April 2003 and met in March 2003 to review and forward to Council recommended responses to address the issues in the HCD Letter of Comments.

Ungo-McCormick noted that the areas that needed to be addressed and the specific programs recommended by the Housing Element Subcommittee included: (1) Density Bonus Program – this is a State requirement and language must be adopted by the Town and included in the Zoning Ordinance to provide a mechanism for a density bonus program should it occur; (2) Group Homes – requires that a residential care facility serving six or fewer persons is a residential use and must be permitted and the recommendation is to amend the Zoning Ordinance to allow board and care facilities for six or fewer residents; (3) Secondary Unit Program – recommendation to find greater incentives for residents to build second units including an expedited process and waving the housing fee for second units; and, (4) Variety of Housing Types – requirement is primarily slanted towards rezoning to higher density.

Ungo-McCormick explained that providing a variety of housing types is the most difficult requirement for the Town to address. Staff looked to communities such as Hillsborough, Atherton and Monte Sereno that are similar economically and topographically to see what programs they have adopted to meet State requirements. These communities rely significantly on their Second Unit Programs and have also looked to programs of annexation of smaller communities with smaller lots within their Sphere of Influence for higher density housing. Another mechanism that is used to provide a variety of housing types is to allow caretaker or employee units within institutions. This allows mixed use with a residential component within the community.

The Housing Subcommittee recommends the use of these programs and forwards them to the Council for their consideration.

Ungo-McCormick concluded her presentation by noting that these programs have been incorporated into a five-year action plan to implement policies and achieve goals and objectives of the Housing Element.

Dot Schreiner, 14301 Saddle Mountain Drive, Housing Subcommittee resident member, stated that she believes the updated version that is being forwarded to the State is reasonable. The State requires the Town provide a variety of housing types and she particularly approves of the program that permits caretaker units on institutions, such as Westwind Barn and Beth Am. Schreiner noted that this could be small in number but would help to meet the Town's mixed useage and affordable housing requirements. The

annexation of areas in the Town's Sphere of Influence will also be beneficial. Schreiner added that the density bonus requirements were the most perplexing to her. It is a State mandated program and by placing a mechanism in place to provide the bonus will hopefully meet the requirement. Schreiner expressed her dissatisfaction that the State does not let the Town count and have credit for the number of residents on the Poor Clares site because this is definitely low-income.

Mayor Pro Tem Cheng asked that the letter written to HCD include language regarding the Poor Clares and the numbers of low-income residents that reside at the monastery.

Deborah Ungo-McCormick added that the information is included in the body of the Element.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to adopt the recommendations of the Housing Element Subcommittee and consultant Deborah Ungo-McCormick and prepare the response as indicated.

Councilmember O'Malley thanked Mayor Fenwick, Mayor Pro Tem Cheng, Dot Schreiner and Elayne Dauber for their work on the Housing Element, noting that it was a very formidable document.

Planning Director Carl Cahill thanked staff member Debbie Pedro for her work on the project.

8. STAFF REPORTS

8.1 City Manager

City Manager Maureen Cassingham reported on the Special Meeting of the League of California Cities General Assembly in Sacramento. It was an historic event, the first Special Meeting of the League's General Assembly. It was convened due to the seriousness of the State budget crisis. With 240 cities represented, a resolution was approved by an overwhelming majority to assist the State with the budget crisis on a one time basis in exchange for a ballot measure on the next election with a Constitutional amendment that would restructure the State's finances and restrict them from coming back to the cities for revenues unless they can confirm a fiscal crisis that is affirmed by a 2/3 vote of the Legislature. She will forward a copy of the adopted Resolution to the City Council upon receipt.

The City Manager introduced Jimmy Forbis, Parks and Recreation Supervisor to Council noting that he was there at the request of Councilmember Kerr for an update on his activities.

8.1.1 Report from Parks and Recreation Supervisor Jimmy Forbis

Parks and Recreation Supervisor Jimmy Forbis presented Council with an overview of projects since he has joined the Town staff. He has organized a Parks and Recreation office in the Heritage House that serves the community as a central location for registration for various activities. Forbis updated the Town's website to include all

programs currently sponsored by the Department and all summer programs. In March, registration for Skyhawks Sports Camps, Ohlone and Westwind Summer Camps, and the Year Round Riding Program. Many of the camps are all ready filled and have waiting lists. Forbis noted that he has made registration available for Department programs by mail, walk-in, and on-line, and table set-ups at various community functions. A database has also been developed to streamline registration and making information more readily available. Forbis added that the Department has also worked on the Recreation budget looking to future programs and exploring grant funds. Recently, Forbis assisted with the Town's Pathway Run. He handled all registrations, waivers, monitored the course and provided pathway maintenance to ensure the safety of the participants.

Forbis concluded by saying that he will be working with the Parks and Recreation Committee to investigate the addition of fall and winter programs.

Council thanked Jimmy Forbis for a very successful Pathway Run.

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

9. COUNCIL-INITIATED ITEMS

None

10. PRESENTATIONS FROM THE FLOOR

Jan Fenwick, 28011 Elena Road, informed the Council and audience that there would be a full lunar eclipse this evening at approximately 8:46 and hoped everyone would have the opportunity to view and enjoy this special astrological occurrence.

Earnest Solomon, 27500 Elena Road, Vice President, Purissima Hills Water District Board, noted that he and the Board are looking forward to future discussions with the Council on the New Town Hall.

11. PUBLIC HEARINGS

11.1 Proposed Draft Ordinance Amending the Sanitation and Health Code by Adding a New Chapter Entitled " Wood Burning Appliances".

Planning Director Carl Cahill introduced this item to Council. The Bay Area Air Quality Management District developed a model ordinance in 1998 to guide counties and cities that wish to regulate certain types of emissions. In March, 2003 the City Council discussed the model ordinance and directed staff to determine if it was feasible for the Town to adopt the ordinance. Cahill explained that the Municipal Code does not address

restrictions on wood burning appliances or wood smoke emissions. However, the Town General Plan does state that air pollution is a regional environmental concern.

The three main components of the draft ordinance are: (1) it prohibits any wood burning appliance when the Bay Area Air Quality management District issues a “Spare the Air Tonight” warning; (2) the ordinance prohibits the burning of certain noxious fuels, including: garbage, treated wood, plastic products, rubber products, paints, and particle board; and (3) prohibition of new masonry wood burning appliances. Fireplaces that are certified by the EPA are permissible as well as pellet fueled stoves, EPA-certified wood stoves or natural-gas fireplaces. Cahill added that the BAAQMD model ordinance that the draft ordinance uses as a template applies to all new fireplaces in either new or remodeled construction.

Cahill explained that the first component of the proposed ordinance requesting volunteer compliance to “Spare the Air Tonight” warnings issued by the BAAQMD will be difficult for the Town to implement. As an alternative, Cahill suggested the Town website could be modified to provide a link to the BAAQMD website where residents could request

e-mail notification of “Spare the Air” days and obtain copies of public education regarding pamphlets on air pollution. Cahill added the Town’s Newsletter as an additional resource for community education and awareness.

The second component of the ordinance which prohibits the burning of noxious fuels has not been an issue in Town. With free household hazardous waste clean-up events, residents are not likely to have an incentive to use their fireplaces as incinerators. In addition the Municipal Code already prohibits the outdoor burning of trash and combustible waste materials.

The third and final component of the model ordinance is the restriction on the installation of non-certified fireplaces. At this time, the EPA has not developed a certification program for wood burning masonry fireplaces. Cahill noted that staff recommends that the Council consider adopting the ordinance with the revision that a fireplace certified by an EPA-accredited laboratory as being compliant with the Northern Sonoma County Air Pollution Control District standards for fireplaces, using that District’s testing protocol for fireplaces. This language is consistent with the adopted ordinances of nearby communities including Palo Alto.

In concluding his report, Cahill added that there is currently no way to measure the number of new wood burning appliances that have been installed in Town. However, according to the Building Department, the large majority of new fireplaces installed are factory built gas fireplaces that do not produce the particular emissions that are of concern. However, if the ordinance is adopted, the Building Official would request certification from the contractor of any new installed wood burning appliance.

Mayor Fenwick, asked if the City of Palo Alto enforces the “Spare the Air Tonight” warnings and how they notify residents. Cahill stated that he believed Palo Alto’s ordinance did not include that component. Fenwick added that it is an important aspect of the ordinance, but enforcement could be problematic.

Councilmember Kerr asked what the implication of the ordinance would be on outdoor firepits and grills. Cahill noted that they are exempt. The primary concern of any outdoor wood burning appliance is their ability to start a fire. Residents are required to obtain a permit from the Fire Department before construction.

Warshawsky asked if surrounding communities have similar ordinances. Cahill acknowledged that Los Gatos and Saratoga have adopted ordinances but Woodside and Portola Valley have not.

OPENED PUBLIC HEARING

Daniel Seidel, 26642 Purissima Road, thanked the Council for the good discussion of an important issue. He is in favor of cleaner air but feels this ordinance has numerous flaws that should be addressed in another way. The ordinance will be difficult to enforce and it promotes the use of gas, a non-renewable resource as a fuel instead of wood, a renewable resource.

Taylor Vanderlip, 13851 Fremont Pines Lane, questioned the Planning Director on how the ordinance would apply to fireplaces damaged by earthquakes. Cahill explained that they could be rebuilt.

Jim Abraham, 12831 Viscaino Road, stated that the possible goal of the BAAQMD is to outlaw fireplaces. He urged Council to proceed with caution. Abraham added that enforcement of the ordinance would be difficult.

Jan Fenwick, 28011 Elena Road, commented that she believes wood smoke can be a factor in certain health issues. She has read that in particular Valleys in the Sierras and Oregon where there is considerable wood burning as a fuel source, documented cases of childhood cancers have been linked to emissions. Fenwick supported the adoption of the ordinance.

CLOSED PUBLIC HEARINGS

Mayor Fenwick, expressed his consternation with wood smoke. He explained that the request from the Bay Area Air Quality Management District to consider adopting the model ordinance was one of the few he has moved forward for Council consideration. He added that he no longer uses his masonry fireplaces for wood burning. Fenwick acknowledged that it might be difficult to enforce the ordinance but he would like to see it adopted and deal with the issues of enforcement later.

Mayor Pro Tem Cheng commented that she believed the ordinance was a good start in dealing with issues of emission and air quality and it would only apply to new construction.

Councilmember O'Malley stated he could support the components and enforcement of the ban of burning noxious materials in a fireplace and "Spare the Air" requirements but he did not support the prohibition of masonry wood burning fireplaces. O'Malley explained that there are very few new homes built in Town each year and he believes this

is not a real issue. He added that he uses and enjoys his wood burning fireplace in the winter.

Councilmember Warshawsky stated he supports the efforts for cleaner air and the intent of the ordinance. He believes that the Town should discourage and prohibit the burning of noxious materials and provide residents with "Spare the Air" information on the Town's website. However, he could not support the banning of wood burning fireplaces. Warshawsky acknowledged that he enjoys using his fireplace and would prefer to see the Town proceed more cautiously on this issue before banning new masonry fireplaces.

Councilmember Kerr agreed that he could support the banning of fires on "Spare the Air" days and the prohibition of burning noxious materials. He suggested that consideration of limiting the number of fireplaces in a new residence might be an option to banning them. Kerr added that he would like to see better-designed fireplaces with possibly emission standards in the future.

Mayor Fenwick clarified that what the Council would like the ordinance to mandate is not the prohibition of the fireplace but what is done with the fireplace. What is burned and when it is burned.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to direct staff to return with the draft ordinance as amended.

11.2 Introduction of Ordinance Amending the Municipal Code to Provide for Sewer Fees for Non-Residential Sewer Connections (Section 6-4.201); Introduction of Resolution Adopting New Sewer Fee Rate Schedule

City Engineer Mintze Cheng introduced this item to Council. The ordinance before Council for their consideration would amend the Municipal Code to establish sewer fees for non-residential sewer connections. The majority of the sewer connections within the Town are residential, however, a few of the connections are non-residential and the current fee schedule does not include provisions for these users.

Cheng alerted Council to a typographical error on Appendix A of the proposed ordinance. The reference to residence the third column denoting "Monthly Charges" should be deleted from the exhibit.

Mayor Fenwick explained that this is an issue that is being visited by Council at this time even though the few institutions that are in the Town are on septic systems. However, several are now considering the possibility of connecting to sewer.

City Engineer Cheng added that there is interest among institutions to hook-up to sewer in the future and this ordinance will provide the fee schedule. She noted that Fremont Hills Country Club has capacity rights and is considering the option of sewer service. Cheng added that Pinewood School is presently on sewer in the Palo Altos Sewer Basin and this ordinance will permit the Town to distribute and recover the costs of operating

and maintaining the sewer system based on equitable benefits received by all sewer customers.

OPENED PUBLIC HEARING
CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by Mayor Pro Tem Cheng, seconded by O'Malley and passed unanimously to waive further reading and to introduce the Ordinance Amending the Municipal Code to Provide Fees for Non-Residential Sewer Connections.

Council adjourned to Closed Session at 8:45 pm.

12. CLOSED SESSION

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: Government Code Section 54956.9(a): Campbell and Ligeti v. Town of Los Altos Hills

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: MacDonald et al. v. Town of Los Altos Hills et al. Case No. CV 813186

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: Ghjeyri v. Wells et al. Case No. CV 787358

The City Council considered the items listed on the closed session agenda and provided direction to staff.

Council reconvened into Open Session at 9:00 p.m.

There was no action taken.

13. ADJOURNMENT

There being no further new or unfinished business, the meeting was adjourned at 9:05 pm

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the May 15, 2003 Regular City Council Meeting were approved at the June 5, 2003 Regular City Council Meeting.